IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 865 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

MOHANLAL VALJI

Appearance:

MR KC SHAH, ADDITIONAL PUBLIC PROSECUTOR for Petitioner

MR CH VORA for Respondent No. 1

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 29/03/2000

ORAL JUDGEMENT

1. The respondent accused was chargesheeted under the provision of Section 7 and 16 of Prevention of Food Adulteration Act (PFA Act for short) before the court of the Judicial Magistrate (First Class), Kutch-Bhuj in Summary case No.3136/88. The respondent pleaded not

guilty to the charge and denied having committed any offence. The Learned Magistrate was pleased to acquit the respondent by judgement and order dated 30.1.1991 for

the offence with which he was charged. The State has preferred this appeal against the said acquittal with leave.

2. It was the prosecution case that the Food Inspector, Bhuj being the complainant visited the shop of the accused at about 6'o clock in the evening on 17th December, 1987 and purchased 450 gms. of chilli powder for the same being analysed and examined. After following the procedure, the complaint has been filed since as per the report of the Public Analyst the sample did not conform to prescribed standards. The Learned Magistrate has rendered acquittal on the ground that the Prosecution failed to observe the provision of Section 13(2) of the PFA Act. According to the said provision, it would be necessary to send to the accused required notice coupled with report of the Public Analyst. In the instant case, it has been found as a matter of fact that the acknowledgement slip does not bear signature or initial of any person much less the accused to show that such a notice was received by him. Having heard the learned APP for the State and learned advocate for the accused, I find that there is no reason to interfere with with the said finding of fact and bearing in mind the facts of the case, this acquittal appeal is dismissed.

(M.S. Parikh, J.)

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